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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT SEATTLE

9 HENRY JAMES,

10 Plaintiff,

11 v.

12 FPI MANAGEMENT, INC., et al.,

13 Defendants.

CASE NO. C18-998RSM

ORDER GRANTING MOTION TO  
DISMISS

14  
15 **I. INTRODUCTION**

16 This matter is before the Court on Defendants Chin and Lally's Motion to Dismiss  
17 Pursuant to Fed. R. Civ. P. 12(b)(6). Dkt. #52. Defendants bring their Motion arguing that  
18 Plaintiff's claims against them are not plausible on their face and fail to adequately state a claim  
19 upon which relief can be granted. For the following reasons and because Plaintiff has failed to  
20 respond, the Court grants the Motion.

21 **II. FACTS**

22 Plaintiff initiated this action based on ongoing disputes with the management company  
23 of his apartment building that he alleges are due to his race. Regarding Defendants Chin and  
24 Lally, employees of the City of Seattle, Plaintiff's Complaint provides:  
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26 On June 19, 2017, plaintiff filed a complaint with the Seattle Office of Civil Rights  
("SOCR") and the Department of Housing and Urban. Plaintiff received an

1 Acceptance Letter dated June 20, 2017, from the U.S. Department of Housing and  
2 Urban Development informing him that his complaint was referred by their office  
3 to the Seattle Office for Civil Rights for investigation as required by the Act [42  
4 U.S.C. 3610(f)]. Plaintiff's interview was with defendant Chin-Enforcement  
5 Manager for the Seattle Office of Civil Rights. According to the investigatory  
6 information given to defendant Lally-Director for Seattle Office of Civil Rights,  
7 by defendant Chin, there were dates and years of events wrong. They used  
8 apartment 602B to illustrate; plaintiff applied for apartment 620B. Plaintiff states  
9 that defendant Chin investigation was inadequate and bias against the plaintiff.  
10 On October 26, 2017, defendant Lally denied plaintiff's claims. Plaintiff filed an  
11 appeal before the Seattle Human Rights Commission Appeals Committee and was  
12 denied on January 18, 2018.

13 Dkt. #5 at 10 (replicated with errors as it appears in the Complaint).

### 14 III. DISCUSSION

#### 15 A. Legal Standard

16 A complaint must "give the defendant fair notice of what the . . . claim is and the grounds  
17 upon which it rests" and must include sufficient facts to "state a claim for relief that is plausible  
18 on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555, 570 (2007) (alteration in original)  
19 (citations omitted). "Determining whether a complaint states a plausible claim for relief will . . .  
20 be a context-specific task that requires the reviewing court to draw on its judicial experience and  
21 common sense." *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009) (citations omitted). Dismissal "can  
22 be based on the lack of a cognizable legal theory or the absence of sufficient facts alleged under  
23 a cognizable legal theory." *Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 699 (9th Cir. 1990);  
24 *see also* FED. R. CIV. P. 8(a)(2). Where the court is interpreting the "inartful pleadings of pro se  
25 litigants," however, the court is to hold the pleadings to a "less stringent standard than formal  
26 pleadings drafted by lawyers." *Eldridge v. Block*, 832 F.2d 1132, 1137 (9th Cir. 1987); *Haines*  
*v. Kerner*, 404 U.S. 519, 520 (1972).

In considering a motion pursuant to Federal Rule of Civil Procedure 12(b)(6), the court  
accepts all facts alleged in the complaint as true and makes all inferences in the light most

1 favorable to the non-moving party. *Baker v. Riverside Cnty. Office of Educ.*, 584 F.3d 821, 824  
2 (9th Cir. 2009) (citations omitted). The Court need not accept “legal conclusion couched as a  
3 factual allegation” and a plaintiff must plead “factual content that allows the court to draw the  
4 reasonable inference that the defendant is liable for the misconduct alleged.” *Iqbal*, 556 U.S. at  
5 678. “The plausibility standard is not akin to a probability requirement, but it asks for more than  
6 a sheer possibility that a defendant has acted unlawfully. . . . Where a complaint pleads facts that  
7 are merely consistent with a defendant’s liability, it stops short of the line between possibility  
8 and plausibility of entitlement to relief.” *Iqbal*, 556 U.S. at 678 (citing *Twombly*, 550 U.S. at  
9 556, 557). Absent facial plausibility, a plaintiff’s claims must be dismissed.  
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#### 11 **B. Dismissal is Appropriate**

12 Plaintiff fails to adequately state a claim against Defendants Chin and Lally. First,  
13 Plaintiff does not point to any legal basis demonstrating that he can maintain a claim against  
14 Defendants for inadequate investigation of his complaint or unadorned bias. Second, Plaintiff  
15 does not establish that he was treated differently than any other individual. Third, even if Plaintiff  
16 was treated differently, he alleges nothing to demonstrate that the disparate treatment was  
17 because of a protected classification. Fourth, Plaintiff does not indicate how Defendants’  
18 inadequate investigation of his complaint or the Defendants’ bias against him related to any harm  
19 he suffered.  
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21 Defendants likewise recount various additional reasons that Plaintiff’s claims fail.  
22 Defendants point out that the Fair Housing Act does not provide a cause of action related to  
23 investigations of complaints by municipalities. Dkt. #52 at 3–4. Defendants further point out  
24 that the “technical deficiencies” alleged do not give rise to negligence or constitutional claims.  
25 *Id.* at 4–5. Further, Defendants point out that the Seattle Municipal Code expressly does not  
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1 provide Plaintiff a cause of action in this situation. *Id.* at 5–6. Lastly, Defendants note the total  
2 dearth of allegations against Defendant Lally that would support a claim against Defendant Lally.  
3 *Id.* at 6. The Court agrees with the deficiencies raised by Defendants.

4 Last, and perhaps most importantly, Plaintiff has not opposed Defendants’ Motion.  
5 Pursuant to the Court’s Local Civil Rules, Plaintiff’s failure to respond is construed as “an  
6 admission that the motion has merit.” LCR 7(b)(2). For this reason, the reasons detailed above,  
7 and the reasons detailed in Defendants’ Motion, dismissal is appropriate.  
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### 9 **C. Leave to Amend**

10 When dismissing a complaint for failure to adequately state a claim, “leave to amend  
11 should be granted unless the court determines that the allegation of other facts consistent with  
12 the challenged pleading could not possibly cure the deficiency.” *Schreiber Distrib. Co. v. Serv-*  
13 *Well Furniture Co.*, 806 F.2d 1393, 1401 (9th Cir. 1986); *Noll v. Carlson*, 809 F.2d 1446, 1448  
14 (9th Cir. 1987) (leave to amend should be granted “unless it is absolutely clear that the  
15 deficiencies of the complaint could not be cured by amendment”); *see also DeSoto v. Yellow*  
16 *Freight Sys., Inc.*, 957 F.2d 655, 658 (9th Cir. 1992) (“A district court does not err in denying  
17 leave to amend where the amendment would be futile.”) (citing *Reddy v. Litton Indus., Inc.*, 912  
18 F.2d 291, 296 (9th Cir. 1990)).  
19

20 Here, leave to amend is not appropriate. Plaintiff’s allegations did nothing to demonstrate  
21 an inference of an adequate claim against Defendants Chin and Lally. More importantly, Plaintiff  
22 has not responded to Defendants’ Motion to argue that his claims have merit or that he is willing  
23 or interested in pursuing them. As a result, the Court concludes that leave to amend would be  
24 futile.  
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**IV. CONCLUSION**

Accordingly, having reviewed Defendants' Motion and the rest of the record, the Court finds and ORDERS that Defendants Chin and Lally's Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(6) (Dkt. #52) is GRANTED. All of Plaintiff's claims against Defendants Chin and Lally are DISMISSED. This case shall remain open as to Plaintiff's remaining claims.

The Clerk shall send a copy of this Order to Plaintiff via U.S. Mail.

DATED this 1 day of July 2019.



RICARDO S. MARTINEZ  
CHIEF UNITED STATES DISTRICT JUDGE